

BEFORE THE ARIZONA STATE BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

In the Matter of:)	
)	
MICHAEL J. SEPTER, D.O.)	
Holder of License No. 1493)	FINDINGS OF FACT,
For the practice of)	CONCLUSIONS OF LAW
Osteopathic Medicine in the)	AND ORDER OF REVOCATION
State of Arizona)	
_____)	

INTRODUCTION

After issuance of the Arizona Board of Osteopathic Examiners in Medicine and Surgery (hereafter "Board") Complaint and Notice of hearing in this matter, the Board conducted an administrative hearing on March 14, 1996; and, Michael J. Septer, D.O. (hereafter, "Respondent") did not personally appear or file an answer to the Board's Amended Complaint. Based upon the evidence presented at the hearing, the Board authorized the issuance of the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACTS

1. Michael J. Septer, D.O., is the holder of Board License No. 1493 for the practice of medicine as an osteopathic physician in the State of Arizona. The practice of medicine as an osteopathic physician in the State of Arizona is restricted to

those individuals licensed by the Board. See A.R.S.. §32-1800, et seq.

2. The Board has the authority to conduct a hearing to determine whether Dr. Septer has engaged in unprofessional conduct. If misconduct is found to have occurred, the Board is authorized to take appropriate disciplinary action, including but not limited to suspension or revocation of Dr. Septer's license, pursuant to A.R.S.. §32-1855(J) and § 41-1061 through 41-1066.

3. Pursuant to A.R.S. §32-1855(G), if Dr. Septer wished to be present at the hearing in person or by representation, or both, he was required to file with the Board his answer to the charges of unprofessional conduct set forth in the Board's Complaint.

4. On January 27, 1992, the Board received a complaint from Douglas R. Eisenstein, D.O., that Dr. Septer had failed or refused to forward patient medical records on 87 separate patients in his possession, despite receiving requests and releases from these patients to have their records transferred to the office of Dr. Einsentein. This complaint was assigned case #1393 by the Board.

5. In Dr. Septer's written response of February 25, 1992 (case #1393), he stated that his failure to provide the records as requested was due to, among other things, the following:

- a. Dr. Eisenstein had failed to pay "...hundreds of dollars for copies" which had been provided, upon request, to Dr. Eisenstein;
- b. Upon Dr. Eisenstein's departure, he confiscated certain patient records, making it impossible to produce them;" and
- c. Dr. Septer's "tardiness" in forwarding the requested records is due to his filing personal and corporate bankruptcy, closing three offices and opening a new one, and placing many records in storage, that making their retrieval" ... cumbersome and time consuming"

6. On November 13, 1992, Dr. Septer telephonically appeared before the Board, for an Informal Interview proceeding regarding, among other matters, case #1393. Upon questioning, Dr. Septer asserted that his failure to forward records to Dr. Eisenstein a requested was due to the fact that the records in question were in a storage locker in Tucson, Arizona, and were being held there pending payment of fees for storage. At the time of the Informal Interview proceeding, Dr. Septer asserted that he was residing in Iuka, Mississippi.

7. On November 13, 1992, Dr. Septer told the Board during the Informal Interview that while residing in Iuka, Mississippi, he was operating and was maintaining his medical practice in Tucson, Arizona by utilizing the services of registered nurses to examine and treat patients. This treatment including the dispensing of controlled substances and prescription-only medications to

patients, as was deemed necessary.

8. On December 7, 1992, based upon Dr. Septer's statements mentioned in Finding No. 7 above, the Board staff, accompanied by Jerry Goldsmith, Division Investigator for the Drug Enforcement Administration, entered Dr. Septer's office in Tucson to determine if Dr. Septer was complying with applicable state and federal statutes. The following determinations were made at that time:

- a. Dr. Septer was not present in his office and had not seen patients there for approximately four weeks;
- b. A registered nurse and medical assistants employed by Dr. Septer were dispensing controlled substances and prescription-only medications to patients in his absence and without the direct supervision or authority of Dr. Septer or another licensed physician;
- c. A registered nurse and medical assistants employed by Dr. Septer were administering intra-muscular injections in his absence and without the direct supervision or authority of Dr. Septer or another licensed physician;
- d. Personnel employed by Dr. Septer changed dosages on controlled substances and prescription-only medications for patients without authorization from Dr. Septer or another licensed physician; and
- e. Dr. Septer, acting through a registered nurse and medical assistants, was utilizing B12, Phentermine and Thyroid medications and received a Letter of Concern from the Board regarding these practices.

9. On February 25, 1993, the Board received a complaint (#1553) from patient R.S. that Dr. Septer had failed to provide him with all copies of his medical records, and made no provision for

mailing him his records when he closed his practice in Tucson, Arizona.

10. Although Dr. Septer was sent notification of the complaint mentioned in Fact #9 above (case #1553) to his address of record (on file) with the Board on March 3, 1993, April 1, 1993 and May 7, 1993, Dr. Septer neither responded nor acknowledged receipt of these notifications.

11. On July 20, 1993, the Board received notice (case #1615) that a medical malpractice suit had been filed against Dr. Septer by patient J.P. with his wife, P.A., named a co-plaintiff, alleging various acts of negligence and/or malpractice in the treatment of J.P. by Dr. Septer during the period April 1986 to January or February 1993. These included:

- a. The administration of an excessive number of trigger point injections to patient J.P.; and
- b. Failure of Dr. Septer and other healthcare workers in his employ and/or supervision, to provide appropriate information to patient J.P. on the potential risks and benefits of trigger point injections.

12. On July 27, 1993, the Board sent notification of the complaint mentioned in Fact #11 above (case #1615) to Dr. Septer at his address of record (on file) with the Board, i.e., 305 East Port Road, Iuka, Mississippi, 38852. This notification was returned to the Board office as unclaimed.

13. On January 7, 1984, the Board sent notification of the two complaints mentioned in Facts #9 and #11 (case #1553 and #1615) to Dr. Septer requesting that he respond to them, at his address of record (on file) at that time, which was the Sparta Health Center, 475 South State Street, Sparta, Michigan 49345. The Board received a signed and dated, domestic return receipt, U.S. Postal Service form 3811, documented that Dr. Septer had received the notification on January 11, 1994.

14. As of the date of the complaint and thereafter the hearing, Dr. Septer has neither responded nor has he provided medical records or any other response to justify the course of treatment alleged in Board case #1615.

15. The Board received an order from the Pima County Superior Court, dated October 3, 1995 in Cause No. D078969, referring the matter of Dr. Septer to the Board pursuant to A.R.S. §32-3701 and requesting that the Board determine whether it is appropriate to suspend the license of Dr. Septer for failure to pay his child support obligations.

16. Dr. Septer is licensed by the Board, pursuant to title 32 of the Arizona Revised Statutes.

17. Dr. Septer is presently delinquent in child support payments and has failed to pay all arrearages.

18. Dr. Septer has not presented any evidence to show that suspension of his license pursuant to A.R.S. §32-3701 is not appropriate.

CONCLUSIONS OF LAW

1. Dr. Septer's conduct, as specifically set forth in Findings 4 through 14, constitutes unprofessional conduct as defined in A.R.S. §32-1854, and specifically:

- a. A.R.S. §32-1854(19) - Conduct contrary to recognized standards of ethics of the osteopathic medical profession and also conduct which might constitute a danger to the health, welfare or safety of Dr. Septer's patients;
- b. A.R.S. §32-1854(21) - Failure and refusing to maintain adequate records on numerous patients;
- c. A.R.S. §32-1854(30) - Failing and/or refusing to make medical records promptly available to another physician on request and receipt of proper authorization.
- d. A.R.S. §32-1854(37) - Lack of or inappropriate direction, collaboration or supervision of a licensed, certified or registered healthcare provider or office personnel employed by or assigned by Dr. Septer in the medical care of his patients; and
- e. A.R.S. §32-1854(40) - Failing to dispense drugs and devices in compliance with Article 4 of Chapter 7 of Title 32 and, specifically, A.R.S. §32-1871.

2. Pursuant to A.R.S. §32-3701, suspension of Dr. Septer's license is appropriate until it is determined that he is not in arrears for child support and until he proves to the Board's Satisfaction that he is current in his payments.

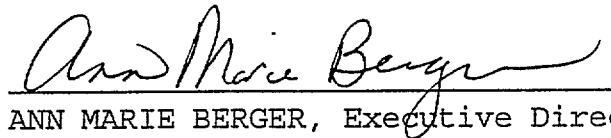
ORDER

Pursuant to the authority vested in the Board by A.R.S. §32-1855(J), IT IS HEREBY ORDERED THAT:

1. The license to practice as an osteopathic physician in the State of Arizona that was issued to Michael J. Septer, D.O. is REVOKED; and, pursuant to A.R.S. §32-1822(F), a person who has had his license revoked may apply for a license two (2) years after revocation.

ISSUED AND EFFECTIVE this 20th day of May, 1996.

ARIZONA BOARD OF OSTEOPATHIC
EXAMINERS IN MEDICINE AND SURGERY


ANN MARIE BERGER, Executive Director

NOTICE: Pursuant to A.R.S. §41-1062(B), Respondent may file a motion for rehearing within no more than fifteen (15) days of service of the Board's Order upon Respondent. Service is deemed effective on date of mailing to Respondent by U.S. certified mail. The motion for rehearing shall be mailed or delivered to the Board's Executive Director.

A copy of the foregoing filed
this ____ day of May, 1996 with:

Office of Administrative Hearings
1700 West Washington, Suite 244
Phoenix AZ 85007

Copy of the foregoing mailed certified
mail this __ day of May, 1995 to:

Michael J. Septer, D.O.
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Attorney for Respondent

A copy mailed this ____ day
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